

2013 DRAFTING REQUEST

Bill

Received: 2/6/2013 Received By: emueller
Wanted: As time permits Same as LRB:
For: John Jagler (608) 266-9650 By/Representing: David Moore, Leg. Council
May Contact: Drafter: emueller
Subject: Transportation - traffic laws Addl. Drafters:
Extra Copies: ARG

Submit via email: YES
Requester's email: Rep.Jagler@legis.wisconsin.gov
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Require reduced speed where sanitation workers are working; double penalties for speeding and reckless driving where sanitation workers are working

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	emueller 2/25/2013			_____			
/P1	emueller 3/12/2013	wjackson 3/4/2013	rschluet 3/4/2013	_____	lparisi 3/4/2013		State S&L Crime
/1		wjackson	rschluet	_____	srose	lparisi	State

Vers. Drafted

Reviewed
3/19/2013

Typed
3/19/2013

Proofed

Submitted
3/19/2013

Jacketed
4/8/2013

Required
S&L
Crime

FE Sent For:

At
intro

<END>

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Pre Topic:

No specific pre topic given


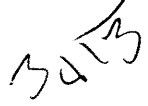
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Require reduced speed where sanitation workers are working; double penalties for speeding and reckless driving where sanitation workers are working

Instructions:

See attached

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<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	emueller	/p1 WJ 3/4		==			
1/p1	EVm 2/25/13						

FE Sent For:

<END>

Mueller, Eric

From: Florian, Mark
Sent: Thursday, February 14, 2013 1:40 PM
To: Mueller, Eric
Subject: FW: Memo

Good afternoon Eric,

Attached please find a memo from David Moore to Rep. Jagler regarding the bill involving protections for solid waste collectors that you are helping us with. We thought that this information may be helpful as you draft the bill. Please feel free to give us a call with any questions or concerns. We really appreciate all of your help!

Thanks and all the best,

Mark

Mark Florian
Office of Representative John Jagler
37th Assembly District
(608) 266-9650





WISCONSIN LEGISLATIVE COUNCIL

Terry C. Anderson, Director
Laura D. Rose, Deputy Director

TO: REPRESENTATIVE JOHN JAGLER

FROM: David Moore, Staff Attorney

RE: Summary of Legislation You Are Authoring, Relating to Enhancing the Penalties for Certain Traffic Violations Committed Where Persons are Engaged in Collecting Solid Waste

DATE: February 14, 2013

You requested a memorandum describing legislation you are authoring that would double the penalties for certain traffic violations committed in an area where persons are engaged in collecting solid waste. This memorandum provides a general overview of that legislation; however, because the legislation you are authoring has not yet been drafted, this memorandum may not address all of the provisions the bill draft will contain.

BACKGROUND

Under current law, the operator of a motor vehicle has a general obligation to refrain from driving a vehicle at a speed greater than is reasonable and prudent under the conditions, and to control the speed of the vehicle "as may be necessary to avoid colliding with any object, person, vehicle, or other conveyance...." [s. 346.57 (2), Stats.] The failure to drive at a speed that is reasonable and prudent under the conditions is punishable by a fine of not less than \$30 nor more than \$300. [s. 346.60 (3m), Stats.]

In addition to this general obligation, current law also identifies specific instances in which reduced speed is required. These include, among other circumstances, "when passing school children, highway construction or maintenance workers or other pedestrians." [s. 346.57 (3), Stats.] A violation of this requirement is punishable by a fine of not less than \$40 nor more than \$300 for the first offense, and not less than \$80 nor more than \$600 for the second or subsequent conviction in a year. However, if the violation occurs where persons engaged in work in a highway maintenance or construction area or in a utility work area are at risk from traffic, any applicable minimum and maximum forfeitures are doubled. [s. 346.60 (3m), Stats.] The same is true for violations that occur in school zones when children are present.

The above penalties apply without regard to whether the driver's failure to reduce his or her speed caused any harm. However, if a driver negligently endangers the safety of any person or property, or causes bodily harm or great bodily harm to another person by negligent operation of a vehicle, he or she may be convicted of reckless driving under s. 346.62, Stats. Generally, the penalty for endangering the safety of another person by negligent operation is a fine of \$25 to \$200 for the first offense. For a second offense within a four-year period, the penalty is a fine of \$50 to \$500, imprisonment for up to a year, or both. Causing bodily harm by negligent operation is a misdemeanor, punishable by a fine of \$300 to \$2,000, imprisonment for 30 days to one year, or both. Causing great bodily harm by negligent operation is a Class I felony. A Class I felony is punishable by a fine not to exceed \$10,000, imprisonment not to exceed six years and three months, or both.¹

As with the statute requiring a driver to reduce his or her speed when passing persons engaged in highway construction or maintenance work, the reckless driving statute imposes enhanced penalties for violations that occur in construction or utility work areas. If the violation occurs in one of these areas, the applicable minimum and maximum forfeiture or fines are doubled. [s. 346.65 (5m), Stats.]

Current law also requires motor vehicle operators to observe certain precautions when passing other types of workers. For example, s. 346.072, Stats., known colloquially as "the move over law," requires a motorist to either slow down or move to the lane that is not nearest the parked vehicle when approaching certain vehicles. The move over law applies when passing emergency vehicles, tow trucks, or highway construction or maintenance machinery that are displaying visual signals and are parked or standing on or within 12 feet of the roadway.²

You informed me that you have been approached by various sanitation workers who are concerned that there are no provisions--as there are for other types of workers whose jobs regularly put them at risk from traffic--directed specifically at protecting sanitation workers. You stated that your concern about this issue was heightened by a recent accident in Dane County in which a sanitation worker was pinned to his truck by a passing motorist. Accordingly, you asked me to work with the Legislative Reference Bureau (LRB) to draft a bill that would provide protections for sanitation workers that are roughly analogous to those that currently apply to highway construction and maintenance workers.

YOUR LEGISLATION

Generally, the legislation you are drafting would list "passing workers engaged in sanitation work" to the list of specified instances requiring a motorist to reduce his or her

¹ The crime of homicide by negligent operation of a vehicle is codified in ch. 940., Stats. This crime is a Class G felony.

² A person who fails to slow down or move over when passing a vehicle protected under the move over law may be fined \$30 to \$300 dollars. The law also provides for license suspensions for violations resulting in property damage, bodily harm, or death, in addition to any penalties that may be imposed for reckless driving.

speed. It would also contain penalty provisions that mirror the double penalties currently applicable to speed and reckless driving violations that occur where persons engaged in work in a highway maintenance or construction area or in a utility work area are at risk from traffic.

Your legislation would accomplish this by adding "persons engaged in collecting solid waste"--or another appropriate term--to s. 346.57 (3), Stats., to require "[t]he operator of every vehicle [to] ... drive at an appropriate reduced speed ... when passing school children, persons engaged in collecting solid waste, highway construction or maintenance workers or other pedestrians...." [See s. 357.57 (3), Stats.]. Your legislation would then amend s. 346.60, Stats., to specify that any applicable minimum and maximum forfeitures for speeding violations are doubled if the violation occurred where persons engaged in collecting solid waste were at risk from traffic.

Finally, your legislation would amend s. 346.65, Stats., to specify that any applicable minimum and maximum forfeitures for violating s. 346.62 (2) to (4), Stats., which proscribes reckless driving, are doubled for violations that occur where workers engaged in sanitation work are at risk from traffic. Because sanitation workers, unlike highway construction and maintenance workers, do not work in defined zones, the drafter will not be able to exactly parallel the provisions that apply to highway construction and maintenance zones. Accordingly, as noted earlier, this memorandum only describes the general contours of your bill, and the bill draft the LRB produces may differ somewhat from this explanation so the drafter can more precisely craft new statutory language that achieves your goals.

If you have any questions, please feel free to contact me directly at the Legislative Council staff offices.

DM:jal



(DNote)
State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1526/P1

EVM:/:...

WLJ

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

(RMK)

(In 2/25/13)

(Soon)

(Sen)

- 1 **AN ACT ...; relating to:** penalties for certain traffic offenses committed while
2 sanitation workers are performing sanitation work and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law requires that the minimum and maximum forfeitures and fines for violations of certain state and local traffic laws be doubled under specified circumstances. Among these, a speeding violation or a reckless driving violation committed in a highway maintenance or construction area or in a utility work area is subject to doubling of the forfeiture or fine.

This bill doubles the minimum and maximum forfeitures for certain speeding violations and the minimum and maximum forfeitures or fines for reckless driving violations committed where sanitation workers are engaged in sanitation work.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 3 **SECTION 1.** 346.57 (3) of the statutes is amended to read:

1 **346.57 (3)** CONDITIONS REQUIRING REDUCED SPEED. The operator of every vehicle
2 shall, consistent with the requirements of sub. (2), drive at an appropriate reduced
3 speed when approaching and crossing an intersection or railway grade crossing,
4 when approaching and going around a curve, when approaching a hillcrest, when
5 traveling upon any narrow or winding roadway, when passing school children,
6 highway construction or maintenance workers, sanitation workers, or other
7 pedestrians, and when special hazard exists with regard to other traffic or by reason
8 of weather or highway conditions.

History: 1973 c. 157; 1975 c. 192, 210; 1977 c. 29 s. 1654 (3), (8) (a); 1977 c. 30, 67, 116, 203, 272; 1987 a. 17, 136; 1993 a. 246; 1995 a. 318; 1997 a. 35; 2001 a. 47.

9 **SECTION 2.** 346.60 (3m) (a) of the statutes is amended to read:

10 **346.60 (3m)** (a) If an operator of a vehicle violates s. 346.57 (2), (3), (4) (d) to
11 (h), or (5) where persons engaged in work in a highway maintenance or construction
12 area or in a utility work area or where sanitation workers engaged in sanitation work
13 are at risk from traffic, any applicable minimum and maximum forfeiture specified
14 in sub. (2) or (3) for the violation shall be doubled.

History: 1971 c. 278; 1973 c. 182, 218; 1973 c. 333 ss. 174p, 202 (12); 1973 c. 336; 1977 c. 30 ss. 6, 7; 1983 a. 27; 1987 a. 17; 1993 a. 198; 1995 a. 44; 1997 a. 277, 325; 2001 a. 90.

15 **SECTION 3.** 346.65 (5m) of the statutes is amended to read:

16 **346.65 (5m)** If an operator of a vehicle violates s. 346.62 (2) to (4) where persons
17 engaged in work in a highway maintenance or construction area or in a utility work
18 area or where sanitation workers engaged in sanitation work are at risk from traffic,
19 any applicable minimum and maximum forfeiture or fine specified in sub. (1), (3),
20 (4m), or (5) for the violation shall be doubled.

History: 1971 c. 278; 1973 c. 218; 1977 c. 193; 1979 c. 221; 1981 c. 20; 1985 a. 80, 337; 1987 a. 3, 27, 398, 399; 1989 a. 105, 176, 271; 1991 a. 39, 251, 277, 315; 1993 a. 198, 317, 475; 1995 a. 44, 338, 359, 425; 1997 a. 27, 135, 199, 237, 277, 283, 295; 1999 a. 32, 109; 2001 a. 16 ss. 3443k, 4060gm, 4060hw, 4060hy; 2001 a. 109; 2003 a. 33, 97, 139, 326; 2005 a. 149, 317, 389; 2007 a. 97, 111; 2009 a. 100, 180; 2011 a. 258.

21 **SECTION 4.** 349.06 (3) of the statutes is amended to read:

22 **349.06 (3)** If an operator of a vehicle violates a local ordinance in strict
23 conformity with s. 346.04 (1) or (2), 346.18 (6), 346.27, 346.37, 346.39, 346.46 (1),

1 346.57 (2), (3), (4) (d) to (h), or (5), or 346.62 (2) where persons engaged in work in
2 a highway maintenance or construction area or in a utility work area are at risk from
3 traffic^{explain space} or violates a local ordinance in strict conformity with s. 346.57 (2), (3), (4) (d)
4 to (h), or (5) or 346.62 (2) where sanitation workers engaged in sanitation work are
5 at risk from traffic, any applicable minimum and maximum forfeiture for the
6 violation shall be doubled.

History: 1971 c. 277, 278, 307; 1973 c. 336; 1975 c. 248; 1981 c. 20; 1987 a. 3, 27; 1993 a. 198, 256; 1995 a. 44; 1997 a. 190, 277.

7 **SECTION 5. Initial applicability.**

8 (1) This act first applies to violations committed on the effective date of this
9 subsection.

10 (END)

(D) Note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1526/P1dn

EVM:/.....

WJ

Date

ATTN: Mark Florian

Please review the attached draft carefully to ensure that it is consistent with your intent. The following are several issues you may wish to consider in your review of this draft.

1. Throughout this draft I have used the terms "sanitation workers" and "sanitation work." These terms are undefined and apparently not elsewhere used in the statutes, but would likely be understood to encompass a broad range of, generally, official sanitation activities. Do you want to provide a definition? Do you want to use a different term? Several statutes use variations of refuse or waste collection or disposal. These terms would likely cover a narrower range of activity than sanitation work. You may wish to contact someone familiar with the industry for more information on the general usage of these terms.

2. Please note, in contrast with highway maintenance and construction areas, motorists will likely have little or no notice that they are entering an area where sanitation workers are performing sanitation work. Do you want to limit the doubling of penalties to situations where the motorist was aware of the presence of sanitation workers or should have been aware of sanitation workers?

3. Several statutes in ch. 346 contain special provisions related to highway maintenance and construction, but have not been treated in this draft. Section 346.072 requires motorists, to the extent safely possible, to change lanes when approaching highway maintenance or construction vehicles. Sections 346.17, 346.22, 346.43, and 346.49 provide that when the violations are committed in highway maintenance or construction areas they are subject to double penalties. The violations covered are, respectively, failure to obey a traffic officer or traffic signal, failure to yield at a yield sign, failure to obey traffic lights, and failure to stop at a stop sign. Please let me know if you would like treatments of any of these statutes added to the draft.

4. The treatment of s. 346.57 (3) in this draft is probably without any actual effect. While I have added language paralleling the current treatment of highway construction or maintenance workers, this language merely provides examples of pedestrians. Do you want to omit this treatment? Do you want to instead specify that 5 motorist should reduce speed in the presence of sanitation workers, whether or not the workers are pedestrians?

5. Would you like to provide a delayed effective date?

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible “/1” draft.

Eric V. Mueller
Legislative Attorney
Phone: (608) 261-7032
E-mail: eric.mueller@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1526/P1dn
EVM:wlj:rs

March 4, 2013

ATTN: Mark Florian

Please review the attached draft carefully to ensure that it is consistent with your intent. The following are several issues you may wish to consider in your review of this draft.

1. Throughout this draft I have used the terms "sanitation workers" and "sanitation work." These terms are undefined and apparently not elsewhere used in the statutes, but would likely be understood to encompass a broad range of, generally, official sanitation activities. Do you want to provide a definition? Do you want to use a different term? Several statutes use variations of refuse or waste collection or disposal. These terms would likely cover a narrower range of activity than sanitation work. You may wish to contact someone familiar with the industry for more information on the general usage of these terms.
2. Please note, in contrast with highway maintenance and construction areas, motorists will likely have little or no notice that they are entering an area where sanitation workers are performing sanitation work. Do you want to limit the doubling of penalties to situations where the motorist was aware of the presence of sanitation workers or should have been aware of sanitation workers?
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5. Would you like to provide a delayed effective date?

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

Eric V. Mueller
Legislative Attorney
Phone: (608) 261-7032
E-mail: eric.mueller@legis.wisconsin.gov

Mueller, Eric

From: Jagler, John
Sent: Wednesday, March 06, 2013 9:25 AM
To: Mueller, Eric
Subject: re: LRB-1526/P1dn

A couple of thoughts on your drafting notes—please take a look and make the following changes.

- Perhaps instead of the undefined "sanitation workers" could we instead use "persons engaged in collecting solid waste"?
- regarding point #2, I agree with the suggested change. "knows or should have known" will comport with my intent.
- regarding point #3, I agree with the draft as written that the other violations aren't included
- regarding point #4, I understand what you are indicating but please leave this in.
- as for the effective date.. I don't see any benefit of a delay.

Thank you very much and, as always, I appreciate your time in drafting this.

3/8 Rep. Jagler

→ or "individual performing collection + transportation of
solid waste + recyclables services"



Do Not
State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1526/P1 11

EVM:wj:rs

Stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION *RMR*

INSECT

1 3 / 2 / 13
STET

*Today
please*

Xoon

regen

- 1 AN ACT *to amend* 346.57 (3), 346.60 (3m) (a), 346.65 (5m) and 349.06 (3) of the
2 statutes **relating to:** penalties for certain traffic offenses committed while
3 sanitation workers are performing sanitation work *at risk from traffic* and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law requires that the minimum and maximum forfeitures and fines for violations of certain state and local traffic laws be doubled under specified circumstances. Among these, a speeding violation or a reckless driving violation committed in a highway maintenance or construction area or in a utility work area is subject to doubling of the forfeiture or fine.

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For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

*at risk from traffic and the driver knows or should know
that sanitation workers are present*

1 **SECTION 1.** 346.57 (3) of the statutes is amended to read:

2 346.57 (3) CONDITIONS REQUIRING REDUCED SPEED. The operator of every vehicle
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4 speed when approaching and crossing an intersection or railway grade crossing,
5 when approaching and going around a curve, when approaching a hillcrest, when
6 traveling upon any narrow or winding roadway, when passing school children,
7 highway construction or maintenance workers, sanitation workers, or other
8 pedestrians, and when special hazard exists with regard to other traffic or by reason
9 of weather or highway conditions.

10 **SECTION 2.** 346.60 (3m) (a) of the statutes is amended to read:

11 346.60 (3m) (a) If an operator of a vehicle violates s. 346.57 (2), (3), (4) (d) to
12 (h), or (5) where persons engaged in work in a highway maintenance or construction
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20 any applicable minimum and maximum forfeiture or fine specified in sub. (1), (3),
21 (4m), or (5) for the violation shall be doubled.

22 **SECTION 4.** 349.06 (3) of the statutes is amended to read:

23 349.06 (3) If an operator of a vehicle violates a local ordinance in strict
24 conformity with s. 346.04 (1) or (2), 346.18 (6), 346.27, 346.37, 346.39, 346.46 (1),
25 346.57 (2), (3), (4) (d) to (h), or (5), or 346.62 (2) where persons engaged in work in

or where sanitation workers are at risk from traffic and the operator
knows or should know that sanitation workers are present

1 a highway maintenance or construction area or in a utility work area are at risk from
2 traffic or violates a local ordinance in strict conformity with s. 346.57 (2), (3), (4) (d)
3 to (h), or (5) or 346.62 (2) where sanitation workers engaged in sanitation work are
4 at risk from traffic, any applicable minimum and maximum forfeiture for the
5 violation shall be doubled.

6 **SECTION 5. Initial applicability.**

7 (1) This act first applies to violations committed on the effective date of this
8 subsection.

9 (END)

and the operator knows or
should know that sanitation
workers are present

DNote

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1526/lins
EVM:wlj:rs

1 INS 2-1

2

3 **SECTION ~~4~~ 340.01** (55u) of the statutes is created to read:

4 340.01 (**55u**) "Sanitation worker" means an individual engaged in the

5 collection and transport of solid waste and recyclables.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1526/1dn

EVM:wlj:rs

stays

Date

ATTN: Rep. John Jagler

This draft uses a variant of your suggested definition of sanitation worker. Please review the definition to ensure it meets your intent. While sanitation workers will include only those engaged in, basically, solid waste collection and transport activities, the definition is not explicitly limited to professional or official services. The term could be interpreted to include anyone performing the covered activities, including scrap metal collectors, self-transporters, and so forth. Please let me know if you have any questions or further instructions.

Eric V. Mueller
Legislative Attorney
Phone: (608) 261-7032
E-mail: eric.mueller@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1526/1dn
EVM:wlj:rs

March 19, 2013

ATTN: Rep. John Jagler

This draft uses a variant of your suggested definition of sanitation worker. Please review the definition to ensure it meets your intent. While sanitation workers will include only those engaged in, basically, solid waste collection and transport activities, the definition is not explicitly limited to professional or official services. The term could be interpreted to include anyone performing the covered activities, including scrap metal collectors, self-transporters, and so forth. Please let me know if you have any questions or further instructions.

Eric V. Mueller
Legislative Attorney
Phone: (608) 261-7032
E-mail: eric.mueller@legis.wisconsin.gov

Barman, Mike

From: Rep.Jagler
Sent: Monday, April 08, 2013 9:17 AM
To: LRB.Legal
Subject: Draft Review: LRB -1526/1 Topic: Require reduced speed where sanitation workers are working; double penalties for speeding and reckless driving where sanitation workers are working

Please Jacket LRB -1526/1 for the ASSEMBLY.